



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Bruno Pigott
Commissioner

VIA ELECTRONIC MAIL

July 9, 2020

Mr. Matthew Wirtz, P.E.
Deputy Director-Engineering
Fort Wayne City Utilities
200 E. Berry Street, Suite 250
Fort Wayne, Indiana 46802

Dear Mr. Wirtz:

Re: Use Attainability Analysis
City of Fort Wayne LTCP
Consent Decree No. 2:07-cv-00445-PPS-APR
Allen County

The Indiana Department of Environmental Management (IDEM) Office of Water Quality (OWQ) has conducted a review of Fort Wayne's Use Attainability Analysis (UAA) for the full body contact recreational designated use for the following Combined Sewer Overflow (CSO) impacted waters:

- St. Marys River (from its junction with Natural Drain #4 near Tillman Road, to the confluence with St. Joseph River);
- Natural Drain #4 (from CSO Outfall 054 near the intersection of Hollis Lane and Mercer Avenue, to its junction with the St. Marys River);
- St. Joseph River (from CSO Outfall 052, located immediately south of Coliseum Boulevard, near N. Anthony Boulevard, to the confluence with St. Marys River);
- Spy Run Creek (from CSO Outfall 036, located north of W. State Street along Eastbrook/Westbrook Drive, to its junction with the St. Marys River south of 4th Street);
- Baldwin Ditch (from CSO Outfalls 061 and 062 near the intersection of E. State Street and Barnhart Avenue, to its junction with the Maumee River near CSO Ponds 1 and 2);
- Harvester Drain (from CSO Outfall 064 to its junction with the Maumee River);
- Maumee River (from its origin at the confluence of the St. Marys River and St. Joseph River in the City, to the boundary between the states of Indiana and Ohio).

The submitted CSO UAA was developed to support a revision to the current recreational use designation for waters impacted by CSO discharges, to Indiana's CSO Wet Weather Limited Use Subcategory. The Limited Use Subcategory would be applied during times of water quality impacts from the few annual storm events that cause CSO events following full implementation of Fort Wayne's Long Term Control Plan (LTCP) in 2025. The implemented LTCP will reduce the number of combined sewer overflow events from 71 events per typical year to one event to the St. Joseph River, and a maximum of four events for the other CSO impacted streams. This LTCP level of control is consistent with the consent decree and subsequent modifications.

Consistent with the Clean Water Act and Federal regulations at 40 CFR 131.10, States may remove designated uses applied to surface waters under their jurisdiction where it is shown that the designated use is not an existing use and that the designated use is not attainable. This is also consistent with Indiana State Law. Based on the information contained in Fort Wayne's UAA, last revised June 2020, IDEM finds that Fort Wayne has provided sufficient information to initiate changing the designated recreational use for the above mentioned waters from "full body contact" to the "CSO wet weather limited use" subcategory of Indiana's recreational use designation as provided in IC 13-18-3-2.5.

In accordance with the requirements of IC 13-14-9-14, IDEM will draft a rule that establishes the CSO wet weather limited use subcategory for the above-mentioned streams. The UAA prepared by Fort Wayne will serve as the technical justification for the proposed rule. The proposed rule will be posted to the Indiana Register for a minimum of 30 days for public review and written comment. Following the public comment period, the Environmental Rules Board (ERB) will hold a public hearing on the rulemaking and vote on adoption of the rule. The rule will then go through the standard promulgation process of review and approval by the Office of the Attorney General, signature by the Governor, and filing with the publisher of the Indiana Administrative Code. It becomes effective 30 days after filing with the publisher, unless a later date is specified within the rule. IDEM will submit the rule to the Environmental Protection Agency (EPA) as a new or revised water quality standard for review and approval under Section 303(c) of the Clean Water Act. The rule will become effective for Clean Water Act purposes when it is approved by EPA. However, the CSO wet weather limited use subcategory will apply to the listed stream reaches only when Fort Wayne has fully implemented the approved LTCP in accordance with IC 13-18-3-2.5.

Mr. Matthew Wirtz, P.E.
Page 3

Please contact Dave Tennis at 317-234-9558 or by email at dtennis@idem.in.gov if you have questions regarding this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Higginbotham", with a long horizontal flourish extending to the right.

Paul Higginbotham
Deputy Assistant Commissioner
Office of Water Quality

cc: Kurt Thiede, Regional Administrator, EPA Region 5
Kumar Menon, Fort Wayne City Utilities
Daniel Deeb, Counsel, Fort Wayne City Utilities
Dave Tennis, CSO Project Manager, IDEM